

Message Text

CONFIDENTIAL

PAGE 01 QUITO 02796 262226Z

12

ACTION ARA-20

INFO OCT-01 ISO-00 L-03 H-03 CIAE-00 INR-10 NSAE-00 RSC-01

TRSE-00 EB-11 DRC-01 /050 W
----- 080818

R 262140Z APR 74

FM AMEMBASSY QUITO

TO SECSTATE WASHDC 0859

C O N F I D E N T I A L QUITO 2796

E.O. 11652: GDS

TAGS: BDIS, EC

SUBJECT: CENTURY ARMS CASE

REF: STATE 79062

1. EMBOFF CALLED ON AUDITOR GENERAL DE GUERRA LT. COL. RICARDO TAPIA AND LEGAL ADVISER TO MINISTER OF DEFENSE DR. CRISTOBAL SERRANO ON APRIL 23. THEY ARE THE RANKING LEGAL AUTHORITIES IN THE MINISTRY. IT BECAME CLEAR THAT THE GOE BY NO MEANS CONSIDERS CENTURY ARMS TO HAVE BEEN AN INNOCENT PARTY IN THE USED ARMS SALES SCANDAL OF 1965-66. SERRANO SPOKE HEATEDLY OF HEAVY LOSSES SUFFERED BY THE GOVERNMENT IN GATHERING A COLLECTION OF ARMS TOGETHER IN GUAYAQUIL AFTER WHICH CENTURY ARMS SELECTED THE NEW AND THE BEST OF THE LOT AND PICKED UP THE BILL FOR EXPORT PACKING CHARGES. CONCLUDING THAT A FRAUD WAS IN PROGRESS, THE GOE STOPPED FURTHER TRANSACTIONS AND PREPARED CASES AGAINST THE MILITARY OFFICERS INVOLVED. SERRANO ASSERTED THAT \$4500 WAS A SMALL SUM FOR ALL THAT CENTURY ARMS HAD CAUSED AND HE ASSERTED MORE THAN ONCE DURING THE CONVERSATION THAT CENTURY ARMS SHOULD FORGET ITS CLAIM.

2. THE LEGAL AUTHORITIES ADMITTED THAT THE GOVERNMENT HAS BROUGHT NO CHARGES AGAINST CENTURY ARMS IN CONNECTION WITH THE CASE AND EMBOFF POINTED OUT THAT THIS IS THE FIRM'S BASIS TO A CLAIM OF LEGAL INNOCENCE. (GOE'S TREATMENT OF THE CASE MAY WELL BE ANALOGOUS TO ITS HANDLING OF THE ADA CASE OF 1972-73. THE GOE DID NOT FOR A MOMENT REGARD THE ADA COMPANIES AS NAIVE BYSTANDERS IN
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 QUITO 02796 262226Z

THE EVENTS THAT LED TO THE HIGHLY PUBLICIZED ARREST, TRIAL, AND

CONVICTION OF ADA LAWYERS AND LEGAL REPRESENTATIVES AND OF THE OFFICIALS WHO PARTICIPATED IN THE AWARD OF THE ADA CONTRACT. NONETHELESS, THE GOE FOUND IT POLITIC NOT TO BRING CHARGES AGAINST US CORPORATIONS AND THEIR EXECUTIVES IN THAT INSTANCE.) FROM THE TENOR OF SERRANO'S REMARKS, IT THEREFORE SEEMS POSSIBLE THAT THE COURT WILL RETAIN THE \$4500 DEPOSIT FOR ONE REASON OR ANOTHER WHEN THE PENDING CASES AGAINST THE MILITARY OFFICERS INVOLVED IN THE TRANSACTION ARE DECIDED.

3. NOTWITHSTANDING THE ABOVE REMARKS OF SERRANO, THE BASIC LEGAL POSITION OF THE MINISTRY OF DEFENSE, AS STATED TO CENTURY ARMS AND TO EMBOFF, IS THAT THERE CAN BE NO SETTLEMENT OF CENTURY ARMS' CLAIM UNTIL THE TRIALS ARE CONCLUDED. EMBOFF REMARKED THAT WE COULD ACCEPT THE VALIDITY OF THIS POSITION IF THERE WERE EVIDENCE THAT THE CASES WERE MOVING FORWARD. TAPIA CONCEDED THAT THE CASES ARE IN SUSPENSE. AFTER BEING PRODDER ON WHAT COULD BE DONE TO ADVANCE CENTURY ARMS' CLAIM TO A CONCLUSION, TAPIA SUGGESTED THAT THE EMBASSY WRITE TO THE MINISTER OF DEFENSE TO POINT OUT THAT RESOLUTION OF THE CLAIM HAS BEEN HELD UP FOR A LONG TIME BECAUSE OF THE PENDING CASES AND REQUEST THAT THE MINISTER CONTACT THE COURT WITH A VIEW TO EXPEDITING THE TRIALS. TAPIA AND SERRANO SAID THAT THE MINISTER IS FAMILIAR WITH THE CENTURY ARMS CASE AND THAT IT IS WITHIN HIS POWER TO APPROACH THE COURT. THE EMBASSY CAN, THEREFORE, UNDERTAKE TO WRITE THE MINISTER AND SEE WHAT ACTION THIS PRODUCES, BUT BELIEVE ACTION PARA 4 SHOULD TAKE PLACE IN ADVANCE.

4. NOTING THAT CENTURY ARMS' ATTORNEYS HAVE NEVER SOUGHT REDRESS THROUGH ECUADOREAN COURTS, EMBOFF ASKED TAPIA IF THIS ROUTE IS AVAILABLE TO CENTURY ARMS. HE SAID THAT A SUIT COULD ONLY BE BROUGHT IN THE MILITARY COURTS AND THAT IT IS POSSIBLE FOR A CIVIL PARTY LIKE CENTURY ARMS TO DO SO. TO BE SURE, TAPIA DID NOT RESPOND AS IF HE WERE ENCOURAGING CENTURY ARMS TO DO IT AND HE MENTIONED THAT THE COURT WOULD BE RELUCTANT TO MAKE A DECISION THAT INTERFERED WITH THE GOVERNMENT'S OTHER PENDING CASES. THE EMBASSY RECOMMENDS, HOWEVER, THAT THE DEPARTMENT ADVISE CENTURY ARMS TO BEGIN TO INITIATE COURT ACTION. IT SEEMS TO US THAT THIS WILL USEFULLY DEMONSTRATE CENTURY ARMS' SERIOUSNESS ABOUT ITS CLAIM AS WELL AS MEET THE USUAL REQUIREMENT THAT CLAIMANTS EXHAUST LOCAL LEGAL REMEDIES BEFORE SEEKING OTHER REDRESS.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 QUITO 02796 262226Z

5. REQUEST THAT DEPARTMENT IN RESPONDING TO CORRESPONDENCE ABOUT CENTURY ARMS ALSO SET THE RECORD STRAIGHT ON CENTURY ARMS' STATEMENTS ABOUT ITS CONTACT WITH THE EMBASSY. ANY READER WOULD PROBABLY ASSUME THAT SUCH CONTACT WAS CONTINUOUS, OR AT LEAST RECENT. WE KNOW FROM PERSONAL KNOWLEDGE THAT THERE HAS BEEN NO CONTACT SINCE AT LEAST LATE 1972 AND WE ARE UNABLE TO LOCATE ANY RECORD IN EMBASSY FILES OF THE CONTACTS THAT MAY HAVE

OCCURRED PRIOR TO THAT TIME. SUBSEQUENT TO DEPARTMENT'S EXPRESS-
ION OF INTEREST IN THE CASE, WE HAVE TAKEN THE INITIATIVE OF
SEEKING OUT CENTURY ARMS' PRESENT AND FORMER ATTORNEYS FOR
INFORMATION.
BREWSTER

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 26 APR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974QUITO02796
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740100-0526
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740411/aaaaaixf.tel
Line Count: 120
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: STATE 79062
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 12 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 SEP 2002 by WorrelSW>; APPROVED <06 FEB 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CENTURY ARMS CASE
TAGS: BDIS, EC
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005